

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

209

CRM-M-5292-2022
Decided on : 17.05.2022

Reena Jain

. . . Petitioner

Versus

State of Haryana

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Shiv Kumar Sharma, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

Mr. Eklavya Gupta, Advocate
for the complainant.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No. 26 dated 17.01.2022 under Sections 406 and 420 of the Indian Penal Code, 1860 and Section 3 of Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013 registered at Police Station Rohtak Civil Lines, District Rohtak.

On 09.02.2022, a Coordinate Bench of this Court was pleased to pass the following order:

“Present petition has been filed under Section 438 Cr.P.C for the grant of anticipatory bail to the petitioner in respect of FIR No.26 dated 17.01.2022 registered under Sections 406 and 420 of the Indian Penal Code,

1860 and Section 3 of the Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013 at Police Station Rohtak Civil Lines, District Rohtak.

Learned senior counsel appearing for the petitioner submits that in the present case, the provision of IPC which has been invoked are not at all applicable as the ingredients of said sections are not fulfilled even if, the allegations alleged in the FIR are accepted. Learned senior counsel further submits that even Section 3 of the Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013 (hereinafter referred as '2013 Act') is also not applicable as the respondent-Company of which, at one given point of time, the petitioner was a Director, is not a financial establishment as envisaged under 2013 Act. Learned senior counsel argues that only claim of the complainants is for the recovery of the amount which they are entitled for keeping in view the fact that they had worked for the said company at one given point of time and even if it is assumed for the sake of arguments that the complainants are is entitled for the said amount, the same will be a civil claim and not a criminal and the said claim cannot be given a color of the criminal proceedings. Learned senior counsel further argues that the petitioner is not a Director any more of the said company as she had resigned from the same way back in the year 2006 and as the petitioner is ready to join the investigation and cooperate with the same, she may kindly be extended the benefit of anticipatory bail.

Notice of motion.

Mr. Gaurav Bansal, learned Assistant Advocate General, Haryana, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the

respondent-State. Mr. Ashok Gupta, Advocate, who has also joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the complainant.

Learned State counsel submits that people have been defrauded by the said company. Learned State counsel further submits that promises made to the persons, who had worked for the Company have not been fulfilled, hence, the custodial interrogation of the petitioner is necessary to find out the fact as to who else apart from the complainants in the present FIR, have not been given their dues.

Learned counsel for the complainants submits that the complainants worked whole-heartedly for the Company and became entitled for certain benefits, which were promised to them keeping in view the prospectus of the company but now the same have not been given to them and are being retained by the company, which is causing prejudice to them and therefore, keeping in view the allegations alleged in the FIR, the provisions of the IPC as well as 2013 Act invoked, is perfectly valid and legal.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In the present case, it is a conceded position that no money was entrusted by the complainants to the company or the petitioner in person. The claim of the complainants is that they are entitled for certain amount as a royalty bonus, which is not being paid by the company and petitioner being director of the company concerned was liable to pay the same to them on behalf of the company. The allegation with regard to the entitlement of the royalty bonus, which is made against the company, is yet to be proved during the trial on the

basis of the evidence, which will come on record. As of now, nothing is to be recovered from the petitioner and as the petitioner is no longer a Director of the company and the petitioner has undertaken before this Court to join the investigation and cooperate with the same, the purpose of investigation, at this stage, will be achieved, in case, the petitioner is directed to join the investigation and cooperate with the same.

Petitioner is directed to join the investigation forthwith. .

In the event of her arrest, she shall be released on interim bail to the satisfaction of the Arresting Officer/Investigating Officer on her furnishing bail bonds/surety bonds to his/her satisfaction subject to the following conditions:

- i) That she shall make herself available for interrogation by the police officer as and when required.*
- ii) That she shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the said facts to the Court or to any police officer.*
- iii) That she shall not leave India without prior permission of the Court.*
- iv) That she shall abide by all the conditions as enshrined under Section 438 (2) Cr.P.C.*

Adjourned to 01.04.2022.

It is, however, made clear that after the petitioner join the investigation, in case any incriminating material comes against the petitioner, the respondent-State shall be at liberty to file appropriate application seeking the custody of the petitioner in case, the same is needed.

*Sd/-
February 09, 2022 (HARSIMRAN SINGH SETHI)
JUDGE"*

Learned counsel for the petitioner has submitted that in pursuance of the above order as well as the order dated 05.04.2022, the petitioner has joined the investigation and is not involved in any other case.

Learned State counsel, on instructions from ASI Amit has submitted that the petitioner has joined the investigation and is not required for any further custodial interrogation.

Keeping in view the abovesaid facts and circumstances moreso, the facts which have been noticed in abovesaid order dated 09.02.2022 as well as order dated 05.04.2022 and also the fact that the petitioner has joined the investigation and is not required for further custodial interrogation, the present petition is allowed and the interim order dated 09.02.2022 is ordered to be made absolute.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

(VIKAS BAHL)
JUDGE

17.05.2022

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No